



STATE OF WISCONSIN

Department of Safety and Professional Services
1400 E Washington Ave.
Madison WI 53703

Mail to:

PO Box 8935
Madison WI 53708-8935

Email: dsps@wisconsin.gov

Web: <http://dsps.wi.gov>

Phone: 608-266-2112

Governor Scott Walker

Secretary Dave Ross

Positions Statements Related to Cemetery Authorities Issued by the Cemetery Board

WHICH CEMETERIES NEED TO BE LICENSED BY THE CEMETERY BOARD?

According to [Wis. Stat. § 440.91\(1\)\(a\)](#), any cemetery that is 5 or more acres in size, that sells 20 or more cemetery lots or mausoleum spaces in a calendar year, OR has \$100,000 or more in trust fund accounts is required to be licensed.

Cemeteries that meet the requirements of § 440.91(1)(a) may be exempt from licensure pursuant to § 440.91(6m). Exempted cemeteries include: municipal cemeteries, religious cemeteries, and benevolent organizations. Please see the specific section to determine whether or not an exemption is applicable in any particular situation.

WHICH CEMETERIES NEED TO REGISTER WITH THE CEMETERY BOARD?

According to Wis. Stat. § 440.91(1m)(a), a cemetery that is less than 5 acres in size, that sells fewer than 20 cemetery lots during a calendar year, OR has less than \$100,000 in trust fund accounts must register with the Board.

Cemeteries that meet the requirements of § 440.91(1m)(a) may be exempt from licensure pursuant to § 440.91(6m). Exempted cemeteries include: municipal cemeteries, religious cemeteries, and benevolent organizations. Please see the specific section to determine whether or not an exemption is applicable in any particular situation.

WHO MAY OPERATE A CEMETERY?

According to [Wis. Stat. 157.065](#), no cemetery may be used for burials except any of the following:

- ☐ A cemetery in use on April 4, 1864
- ☐ A cemetery organized and operated by:
 - ☐ A municipality
 - ☐ A religious organization
 - ☐ A fraternal or benevolent society
 - ☐ An incorporated college of a religious order
 - ☐ A cemetery association created under s. 157.062
 - ☐ A corporation organized under Ch. 180 or 181.
 - ☐ A limited liability company organized under ch. 183

DO PRIVATE, FAMILY CEMETERIES NEED TO REGISTER WITH THE DEPARTMENT OF REGULATION AND LICENSING?

The Wisconsin Statutes do not define a private, family cemetery or set limitations for their enactment or use. Please see [Wis. Stat. § 157.065](#) for information on cemetery establishment, [Wis. Stat. § 157.128](#) for acreage requirements, and [Wis. Stat. §157.07](#) for platting requirements. You may also wish to call other state agencies, such as the Department of Health Services, or your local municipality, before you continue with a private burial.

WHO NEEDS A CEMETERY SALESPERSON LICENSE?

[Wis. Stat. § 440.91\(2\)](#) states that any person who sells or solicits the sale of a 20 or more plots a year during two consecutive calendar years needs a license from the Department. Wis. Stat. § 440.91(10) sets out an exception if an individual sells only cemetery merchandise or undeveloped spaces under preneed sales contracts.

IS THERE A MINIMUM DEPTH AT WHICH A BODY MUST BE BURIED?

The Wisconsin Statutes and the Wisconsin Administrative Code relating to Cemeteries have no requirements regarding the minimum depth for the burial of human remains. You may wish to reference local ordinances for further information.

HOW MANY BODIES MAY BE BURIED IN A SINGLE PLOT?

The Wisconsin Statutes and the Wisconsin Administrative Code relating to Cemeteries have no requirements regarding the number of bodies buried in a single plot. You may wish to reference local ordinances for further information.

HOW MUCH MONEY MUST BE DEPOSITED IN A CARE FUND FOR THE SALE OF A CEMETERY LOT?

[Wis. Stat. § 157.11\(9g\)](#) states that registered cemeteries are required to deposit 15% of each payment of principal for a cemetery lot into a care fund. The total amount must be equal to 15% of the total amount of payments of principal that have been received, except that the total must be at least \$25.00. The cemetery authority may not withdraw the care fund's principle amount.

HOW MAY A CEMETERY USE THE INCOME FROM THE INVESTMENT OF A CARE FUND?

[Wis. Stat. § 157.11\(9g\)](#) states that the income may be used only to maintain cemetery lots and grounds, except that if the amount of income exceeds the amount necessary to do such maintenance, the excess amount may be used to maintain any other part of the cemetery, including mausoleums.

MAY A CEMETERY COMBINE A PRENEED TRUST FUND AND A CARE FUND FOR INVESTMENT PURPOSES?

[Wis. Stat. §157.19\(6\)](#) allows for the combination of preneed trust funds and care funds for investment purposes. However, the statute also states that “if the cemetery authority maintains separate accountings for each fund.”

HOW MUCH MONEY MUST BE DEPOSITED IN A CARE FUND FOR THE SALE OF A MAUSOLEUM SPACE?

[Wis. Stat. § 157.12\(3\)](#) states that registered cemeteries must deposit 25% of each payment of principal received in the sale of a mausoleum space into the care fund, until the care fund equals 25% of the cost of constructing the mausoleum. If the mausoleum was constructed prior to June 15, 1933, the cemetery shall deposit 15% of each payment of principal received from the sale of a mausoleum space into the care fund, until the care fund equals 10% of the cost of constructing the mausoleum.

WHAT SHOULD I DO IF I FIND AN ABANDONED CEMETERY ON MY PRIVATE PROPERTY?

The Board does not have jurisdiction over abandoned cemeteries. However, if you find an abandoned cemetery on your lot, you should contact the Burial Sites Preservation Office at the [State Historical Society](#) and report the cemetery before you take any further action.

MAY A FUNERAL ESTABLISHMENT BE LOCATED IN A CEMETERY?

No, [Wis. Stat. § 157.067](#) prohibits a cemetery authority or any of its employees or agents to have ownership, operation, or other financial interest in a funeral establishment.